

Senate Daily Reader

Wednesday, February 11, 2004

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State of South Dakota

SEVENTY-NINTH SESSION
LEGISLATIVE ASSEMBLY, 2004

400J0268

HOUSE APPROPRIATIONS COMMITTEE ENGROSSED

NO. **HB 1017** - 01/26/2004

Introduced by: The Committee on Appropriations at the request of the Board of Regents

1 FOR AN ACT ENTITLED, An Act to authorize the Board of Regents to construct a
2 multipurpose storage and processing facility for the foundation seed stock program and to
3 make an appropriation therefor.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

5 Section 1. The Board of Regents may contract for the construction, completion, furnishing,
6 equipping, and maintaining of, including heating, air conditioning, plumbing, water, sewer,
7 electric facilities, architectural and engineering services, asbestos abatement, and such other
8 services as may be required to construct a multipurpose storage and processing facility for the
9 foundation seed stock program that operates on its campus, located at Brookings, in Brookings
10 County, in conjunction with the agricultural experiment station, at an estimated cost of two
11 hundred fifty thousand dollars.

12 Section 2. There is hereby appropriated two hundred fifty thousand dollars (\$250,000) from
13 the foundation seed stock division of the agricultural experiment station for the purpose of
14 constructing the facility described in section 1 of this Act.

15 Section 3. The Board of Regents may accept, transfer, and expend any funds obtained for



1 these purposes from federal sources, gifts, contributions, or any other source, all of which shall
2 be deemed appropriated to the project authorized by this Act.

3 Section 4. The design and construction of the facilities approved by this Act shall be under
4 the general supervision of the Bureau of Administration as provided in chapter 5-14.

5 Section 5. The commissioner of the Bureau of Administration and the executive director of
6 the Board of Regents shall approve vouchers and the state auditor shall draw warrants to pay
7 expenditures authorized by this Act.

8 Section 6. Notwithstanding the provisions of § 13-51-2, neither the educational facilities
9 fund, nor any money appropriated for statewide maintenance and repair, may be used to finance
10 the maintenance and repair of the facilities specified in this Act.

State of South Dakota

SEVENTY-NINTH SESSION
LEGISLATIVE ASSEMBLY, 2004

400J0220

HOUSE TRANSPORTATION COMMITTEE

ENGROSSED NO. **HB 1044** - 01/21/2004

This bill has been extensively amended (hoghoused) and may no longer be consistent with the original intention of the sponsor.

Introduced by: The Committee on Transportation at the request of the Department of Revenue and Regulation

1 FOR AN ACT ENTITLED, An Act to revise certain provisions regarding damage disclosure
2 information on certain vehicles coming into the state.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 32-3-51.16 be amended to read as follows:

5 32-3-51.16. The department shall, in a conspicuous location, place ~~the damage information~~
6 ~~pursuant to § 32-3-51.7~~ on the first South Dakota title and all subsequent titles issued for any
7 motor vehicle ~~which came into the state unrepaired~~ and for which a salvage certificate of title
8 was issued by another state ~~unless the person applying for the South Dakota title maintains at~~
9 ~~his place of business proof that the vehicle did not sustain damage equivalent to the amount set~~
10 ~~forth in this chapter. The proof shall include two photographs showing all four sides of the~~
11 ~~motor vehicle and either an insurance adjuster's written report or a written repair estimate which~~
12 ~~details the parts, labor, paint, and frame work required to repair the motor vehicle.~~

13 ~~— The photographs and other documents showing proof that the amount of damage is less than~~
14 ~~set forth in this chapter shall be maintained by the person applying for a title for at least two~~



- 1 ~~years, the name of the previous state and any brand or notation indicated on the title by that~~
- 2 state.

State of South Dakota

SEVENTY-NINTH SESSION
LEGISLATIVE ASSEMBLY, 2004

400J0359

HOUSE COMMERCE COMMITTEE ENGROSSED NO. **HB 1050** - 01/22/2004

Introduced by: The Committee on Commerce at the request of the Department of Revenue
and Regulation

1 FOR AN ACT ENTITLED, An Act to revise certain standards for insurance producers licensure
2 and to prohibit insurance producers from influencing certain witnesses.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 58-30-167 be amended to read as follows:

5 58-30-167. The director may suspend for not more than twelve months, or may revoke or
6 refuse to continue, any license issued under this chapter; or any license of a surplus lines broker
7 after a hearing. Notice of such hearing and of the charges against the licensee shall be given to
8 the licensee and to the insurers represented by such licensee or to the appointing agent of a
9 producer at least twenty days before the hearing. The director may suspend, revoke, or refuse
10 to issue or renew an insurance producer's license or may accept a monetary penalty in
11 accordance with § 58-4-28.1 or any combination thereof, for any one or more of the following
12 causes:

13 (1) Providing incorrect, misleading, incomplete, or materially untrue information in the
14 license application;

15 (2) Violating any insurance laws or rules, subpoena, or order of the director or of another



1 state's insurance director, commissioner, or superintendent;

2 (3) Obtaining or attempting to obtain a license through misrepresentation or fraud;

3 (4) Withholding, misappropriating, or converting any monies or properties received in
4 the course of doing insurance business;

5 (5) Intentionally misrepresenting the terms of an actual or proposed insurance contract
6 or application for insurance;

7 (6) Having been convicted of a felony;

8 (7) Having admitted or been found to have committed any insurance unfair trade practice
9 or fraud;

10 (8) Using fraudulent, coercive, or dishonest practices, or demonstrating incompetence,
11 untrustworthiness, or financial irresponsibility in the conduct of business in this state
12 or elsewhere;

13 (9) Having an insurance producer license, or its equivalent, denied, suspended, or
14 revoked in any other state, province, district, or territory;

15 (10) Forging another's name to an application for insurance or to any document related to
16 an insurance transaction;

17 (11) Using notes or any other reference material to complete an examination for an
18 insurance license;

19 (12) Knowingly accepting insurance business from an individual who sells, solicits, or
20 negotiates insurance and is not licensed; ~~or~~

21 (13) Failing to comply with an administrative or court order imposing a child support
22 obligation; or

23 (14) Not trustworthy or not of good character as to morals or integrity.

24 Section 2. That chapter 58-30 be amended by adding thereto a NEW SECTION to read as

1 follows:

2 No insurance producer may, directly or indirectly, attempt to influence a witness to decline
3 to testify or to testify falsely or withhold any testimony, information, document, or thing in any
4 matter before the division.

State of South Dakota

SEVENTY-NINTH SESSION
LEGISLATIVE ASSEMBLY, 2004

400J0356

HOUSE COMMERCE COMMITTEE ENGROSSED NO. **HB 1051** - 01/15/2004

Introduced by: The Committee on Commerce at the request of the Department of Revenue
and Regulation

1 FOR AN ACT ENTITLED, An Act to revise the requirements for utilization review and
2 grievance procedures.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 58-17C-94 be amended to read as follows:

5 58-17C-94. With respect to a voluntary review of a first level review decision made pursuant
6 to §§ 58-17C-83 to 58-17C-86, inclusive, a health carrier shall appoint a review panel to review
7 the request. In conducting the review, the review panel shall take into consideration all
8 comments, documents, records, and other information regarding the request for benefits
9 submitted by the covered person or the covered person's authorized representative pursuant to
10 § 58-17C-93, without regard to whether the information was submitted or considered in
11 reaching the first level review decision. The decision of the panel is legally binding on the health
12 carrier.

13 Except for an individual who was involved with the first level review decision who may be
14 a member of the panel or appear before the panel to present information or answer questions,
15 a majority of the panel shall be comprised of individuals who were not involved ~~in the~~ in the



1 first level review decision made pursuant to §§ 58-17C-83 to 58-17C-86, inclusive.

2 The health carrier shall ensure that a majority of the individuals conducting the additional
3 voluntary review of the first level review decision made pursuant to §§ 58-17C-83 to
4 58-17C-86, inclusive, are health care professionals who have appropriate expertise. If a
5 reviewing health care professional without the expertise required by this section is not
6 reasonably available and there has been a denial of a health care service, the reviewing health
7 care professional ~~may not~~ is only ineligible to review decisions if the professional meets both
8 of the following criteria:

9 (1) ~~Be a~~ The professional is a provider in the covered person's health benefit plan; and

10 (2) ~~Have a~~ The professional has financial interest in the outcome of the review.

11 Section 2. That § 58-17C-100 be amended to read as follows:

12 58-17C-100. In an expedited review that is not an initial determination for benefits, all
13 necessary information, including the health carrier's decision, shall be transmitted between the
14 health carrier and the covered person or, if applicable, the covered person's authorized
15 representative by telephone, facsimile, or the most expeditious method available.

16 Section 3. That § 58-17C-101 be amended to read as follows:

17 58-17C-101. An expedited review decision, that is not an initial determination for benefits,
18 shall be made and the covered person or, if applicable, the covered person's authorized
19 representative shall be notified of the decision in accordance with § 58-17C-102 as
20 expeditiously as the covered person's medical condition requires, but in no event more than
21 seventy-two hours after the date of receipt of the request for the expedited review. If the
22 expedited review is of a grievance involving an adverse determination with respect to a
23 concurrent review urgent care request, the service shall be continued without liability to the
24 covered person until the covered person has been notified of the determination.

1 For purposes of calculating the time periods within which a decision is required to be made
2 under this section, the time period within which the decision is required to be made shall begin
3 on the date the request is filed with the health carrier in accordance with the health carrier's
4 procedures established pursuant to § 58-17C-82 for filing a request without regard to whether
5 all of the information necessary to make the determination accompanies the filing.

6 Section 4. That chapter 58-17C be amended by adding thereto a NEW SECTION to read as
7 follows:

8 The provisions of §§ 58-17C-40 to 58-17C-102, inclusive, do not apply to any medicare
9 supplement policies or certificates subject to the provisions of chapter 58-17A.

10 Section 5. That § 58-17C-3 be amended to read as follows:

11 58-17C-3. Nothing in ~~§§ 58-17C-1 to 58-17C-3, inclusive,~~ § 58-17C-2 applies to dental
12 only, vision only, accident only, school accident, travel, or specified disease plans or plans that
13 primarily provide a fixed daily, fixed occurrence, or fixed per procedure benefit without regard
14 to expenses incurred.

State of South Dakota

SEVENTY-NINTH SESSION
LEGISLATIVE ASSEMBLY, 2004

400J0391

HOUSE JUDICIARY COMMITTEE ENGROSSED NO.

HB 1056 - 01/30/2004

This bill has been extensively amended (houghoused) and may no longer be consistent with the original intention of the sponsor.

Introduced by: The Committee on Judiciary at the request of the Department of Game, Fish and Parks

1 FOR AN ACT ENTITLED, An Act to implement an interstate wildlife violator compact.

2 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

3 Section 1. An interstate wildlife violator compact is entered with all states legally joining
4 the compact in the form substantially as contained in this Act.

5 Section 2. The purpose of this Act and compact is to provide a means through which
6 participating states may join in a reciprocal program to provide for the fair and impartial
7 treatment of wildlife violators operating within participating states in recognition of the
8 violator's right to due process and the sovereign status of a participating state.

9 Section 3. Terms used in this Act and compact mean:

10 (1) "Citation," any summons, complaint, summons and complaint, ticket, penalty
11 assessment, or other official document that is issued to a person by a wildlife officer
12 or other peace officer for a wildlife violation and that contains an order requiring the
13 person to respond;

14 (2) "Collateral," any cash or other security deposited to secure an appearance for trial



1 in connection with the issuance by a wildlife officer or other peace officer of a
2 citation for a wildlife violation;

3 (3) "Compliance," with respect to a citation, the act of answering a citation through an
4 appearance in a court or tribunal, or through the payment of fines, costs, and
5 surcharges, if any;

6 (4) "Conviction," a conviction, including any court conviction, for any offense that is
7 related to the preservation, protection, management, or restoration of wildlife and that
8 is prohibited by state statute, law, regulation, ordinance, or administrative rule. The
9 term also includes the forfeiture of any bail, bond, or other security deposited to
10 secure appearance by a person charged with having committed any such offense, the
11 payment of a penalty assessment, a plea of nolo contendere, and the imposition of a
12 deferred or suspended sentence by the court;

13 (5) "Court," a court of law, including magistrate's court and the justice of the peace court,
14 if any;

15 (6) "Home state," the state of primary residence of a person;

16 (7) "Issuing state," the participating state that issues a wildlife citation to a violator;

17 (8) "License," any license, permit, or other public document that conveys to the person
18 to whom it was issued the privilege of pursuing, possessing, or taking any wildlife
19 regulated by statute, law, regulation, ordinance, or administrative rule of a
20 participating state;

21 (9) "Licensing authority," the department or division within each participating state that
22 is authorized by law to issue or approve licenses or permits to hunt, trap, fish, or
23 possess wildlife;

24 (10) "Participating state," any state that enacts legislation to become a member of this

1 wildlife compact;

2 (11) "Personal recognizance," an agreement by a person made at the time of issuance of
3 the wildlife citation that such person will comply with the terms of the citation;

4 (12) "State," any state, territory, or possession of the United States, the District of
5 Columbia, the Commonwealth of Puerto Rico, the provinces of Canada, and other
6 countries;

7 (13) "Suspension," any revocation, denial, or withdrawal of any or all license privileges,
8 including the privilege to apply for, purchase, or exercise the benefits conferred by
9 any license;

10 (14) "Terms of the citation," those conditions and options expressly stated in the citation;

11 (15) Wildlife," all species of animals including mammals, birds, fish, reptiles, amphibians,
12 mollusks, and crustaceans, which are defined as wildlife and are protected or
13 otherwise regulated by statute, law, regulation, ordinance, or administrative rule in
14 a participating state. Species included in the definition of wildlife for purposes of this
15 compact are based on state or local law;

16 (16) "Wildlife law," any statute, law, regulation, ordinance, or administrative rule
17 developed and enacted for the management of wildlife resources and the uses thereof;

18 (17) "Wildlife officer," any individual authorized by a participating state to issue a citation
19 for a wildlife violation;

20 (18) "Wildlife violation," any cited violation of a statute, law, regulation, ordinance, or
21 administrative rule developed and enacted for the management of wildlife resources
22 and the uses thereof.

23 Section 4. The Department of Game, Fish and Parks shall enforce the interstate wildlife
24 violator compact and shall do all things within the department's jurisdiction that are necessary

1 to effectuate the purposes and the intent of the compact.

2 Section 5. When issuing a citation for a wildlife violation, a wildlife officer may issue a
3 citation to any person whose primary residence is in a participating state in the same manner as
4 though the person was a resident of the issuing state and may not require such person to post
5 collateral to secure appearance, subject to the exceptions noted in section 6 of this Act, if the
6 officer receives the recognizance of such person that the person will comply with the terms of
7 the citation.

8 Section 6. Personal recognizance is acceptable:

9 (1) If not prohibited by state or local law or the compact manual; and

10 (2) If the violator provides adequate proof of identification to the wildlife officer.

11 Section 7. If a person fails to comply with the terms of a wildlife citation, the person's failure
12 to comply shall be reported to the licensing authority of the issuing state. The report shall be
13 made in accordance with procedures specified by the issuing state and shall contain information
14 as specified in the compact manual as minimum requirements for effective processing by the
15 licensing authority of the violator's home state.

16 Section 8. Upon receipt of the report of noncompliance pursuant to section 7 of this Act, the
17 licensing authority of the issuing state shall transmit to the licensing authority of the violator's
18 home state information related to the failure of the violator to comply with the terms of a
19 citation in the form and content as prescribed in the compact manual.

20 Section 9. Upon receipt of a report from the licensing authority of the issuing state reporting
21 the failure of a violator to comply with the terms of a citation, the licensing authority of the
22 violator's home state shall notify the violator of the failure to comply through personal contact
23 by a wildlife officer or in writing by certified mail. The notice shall afford the violator a period
24 of thirty consecutive days to comply with the terms of the citation. The thirty-day period shall

1 commence from the date of personal contact or from the date of mailing of the notice by
2 certified mail. If the violator fails to comply with the terms of the citation within the thirty-day
3 period, the licensing authority of the home state may then suspend the violator's hunting,
4 trapping, or fishing privileges until satisfactory evidence of compliance with the terms of the
5 citation has been furnished by the issuing state to the home state licensing authority. Due
6 process safeguards shall be accorded and the licensing authority of the home state shall maintain
7 a record of actions taken and shall make reports to issuing states as provided in the compact
8 manual.

9 Section 10. Upon suspending the hunting, trapping, or fishing privileges of any person
10 pursuant to sections 8 and 9 of this Act, the licensing authority of the home state shall notify the
11 person in writing by certified mail. Within twenty days following mailing of the notice of
12 suspension, the person may request a hearing before the South Dakota Game, Fish and Parks
13 Commission on whether the requirements for suspension have been met. Upon request of the
14 person, the commission shall set a hearing as early as practicable. The requesting person may
15 present evidence and arguments at the hearing contesting whether the person failed to comply
16 with the terms of a citation issued for a wildlife violation in a participating state. Grounds other
17 than those listed in this section may not be used to contest the licensing authority's decision to
18 suspend the person's privileges.

19 Section 11. At the hearing, the commission, through its authorized agent, may:

- 20 (1) Administer oaths;
- 21 (2) Issue subpoenas for the attendance of witnesses; and
- 22 (3) Admit all relevant evidence and documents, including notifications from
23 participating states.

24 Following the hearing, the commission, through its authorized agent, may, based on the

1 evidence, affirm, modify, or rescind the suspension of privileges.

2 Section 12. If the person fails to request a hearing within twenty days of mailing of the
3 notice of suspension, or if the suspension of hunting, trapping, or fishing privileges is affirmed
4 by the commission or its authorized agent following a required hearing, the suspension of
5 hunting, trapping, or fishing privileges shall become effective and the person shall surrender any
6 current South Dakota hunting, trapping, or fishing license to the licensing authority within
7 fourteen days.

8 Section 13. All participating states may recognize the suspension of license privileges of any
9 person by any participating state as though the violation resulting in the suspension had occurred
10 in their state and could have been the basis for suspension of license privileges in their state.

11 Section 14. Each participating state shall communicate suspension information to other
12 participating states in form and content as contained in the compact manual.

13 Section 15. If the licensing authority of the home state receives notice of the suspension of
14 a person's hunting, trapping, or fishing privileges by a participating state, the licensing authority
15 may suspend the person's hunting, trapping, or fishing privileges in the home state for the same
16 duration as imposed by the participating state in accordance with § 41-6-75.1. The licensing
17 authority of the home state shall notify the person of the suspension of hunting, trapping, fishing
18 privileges in writing and direct the person to surrender any current South Dakota hunting,
19 trapping, or fishing license to the licensing authority within fourteen days.

20 Section 16. Except as expressly required by this compact, nothing in this compact may be
21 construed to affect the right of any participating state to apply any of its laws relating to license
22 privileges to any person or circumstance or to invalidate or prevent any agreement or other
23 cooperative arrangement between a participating state and a nonparticipating state concerning
24 wildlife law enforcement.

1 Section 17. For the purposes of administering this Act and compact and to serve as a
2 governing body for the resolution of all matters relating to the operation of this compact, a board
3 of compact administrators is established. The board is composed of one representative from
4 each of the participating states to be known as the compact administrator. The compact
5 administrator shall be appointed by the head of the licensing authority of each participating state
6 and serves and is subject to removal in accordance with the laws of the state that the compact
7 administrator represents. A compact administrator may provide for the discharge of duties and
8 the performance of functions as a board member by an alternate. An alternate is not entitled to
9 serve unless written notification of the identity of the alternate has been given to the board.

10 Section 18. Each member of the board of compact administrators is entitled to one vote. No
11 action of the board is binding unless taken at a meeting at which a majority of the total number
12 of the board's votes are cast in favor of the action. Action by the board may be only at a meeting
13 at which a majority of the participating states is represented.

14 Section 19. The board shall elect annually from its membership a presiding officer and a
15 vice presiding officer.

16 Section 20. The board shall adopt bylaws consistent with the provisions of this Act and
17 compact or the laws of a participating state for the conduct of its business and may amend and
18 rescind its bylaws.

19 Section 21. The board may accept for any of its purposes and functions under this compact
20 any and all donations and grants of money, equipment, supplies, materials, and services,
21 conditional or otherwise, from any state, the United States, or any governmental agency, and
22 receive, utilize, and dispose of the same.

23 Section 22. The board may contract with, or accept services or personnel from, any
24 governmental or intergovernmental agency, individual, firm, or corporation, or any private

1 nonprofit organization or institution.

2 Section 23. The board shall formulate all necessary procedures and develop uniform forms
3 and documents for administering the provisions of this compact. All procedures and forms
4 adopted pursuant to board action must be contained in a compact manual.

5 Section 24. This compact becomes effective at such time as it is adopted in a substantially
6 similar form by two or more states.

7 Section 25. Entry into the compact shall be made by resolution of ratification approved by
8 the South Dakota Department of Game, Fish and Parks Commission and submitted to the
9 presiding officer of the board.

10 Section 26. The resolution shall substantially be in the form and content as provided in the
11 compact manual and shall include the following:

- 12 (1) A citation of the authority from which the state is empowered to become a party to
13 this compact;
- 14 (2) An agreement of compliance with the terms and provisions of this compact; and
- 15 (3) An agreement that compact entry is with all states participating in the compact and
16 with all additional states legally becoming a party to the compact.

17 Section 27. The effective date of entry shall be specified by the applying state but may not
18 be less than sixty days after notice has been given by the presiding officer of the board of the
19 compact administrators or by the secretariat of the board to each participating state that the
20 resolution from the applying state has been received.

21 Section 28. A participating state may withdraw from participation in this compact by official
22 written notice to each participating state. Withdrawal does not become effective until ninety
23 days after the notice of withdrawal is given. The notice shall be directed to the compact
24 administrator of each member state. Withdrawal of any state does not affect the validity of this

1 compact as to the remaining participating states.

2 Section 29. The South Dakota Department of Game, Fish and Parks Commission is
3 authorized on behalf of the state to enter or withdraw from the interstate wildlife violator
4 compact pursuant to the terms of sections 24, 25, and 26 of this Act.

5 Section 30. This compact may be amended. Amendments shall be presented in resolution
6 form to the presiding officer of the board of the compact administrators and shall be initiated
7 by one or more participating states.

8 Section 31. Adoption of an amendment requires endorsement by all participating states and
9 becomes effective thirty days after the date of the last endorsement.

10 Section 32. Failure of a participating state to respond to the compact presiding officer within
11 one hundred twenty days after receipt of a proposed amendment constitutes endorsement of the
12 amendment.

13 Section 33. The South Dakota Department of Game, Fish and Parks Commission is
14 authorized to adopt amendments to the interstate wildlife violator compact pursuant to the terms
15 of sections 30, 31, and 32 of this Act.

16 Section 34. This compact shall be liberally construed so as to effectuate its intended
17 purposes. The provisions of this compact are severable, and if any phrase, clause, sentence, or
18 provision of this compact is declared to be contrary to the constitution of any participating state
19 or the United States, or the applicability thereof to any government, agency, individual, or
20 circumstance is held invalid, the validity of the remainder of the compact is not affected thereby.
21 If this compact is held contrary to the constitution of any participating state, the compact
22 remains in full force and effect as to the remaining states and in full force and effect as to the
23 participating state affected as to all severable matters.

24 Section 35. A person whose hunting, trapping, or fishing privileges have been suspended

- 1 and who hunts, traps, or fishes in this state or who applies for or purchases any licenses or
- 2 permits to hunt, trap, or fish in this state, is guilty of a Class 1 misdemeanor.

State of South Dakota

SEVENTY-NINTH SESSION
LEGISLATIVE ASSEMBLY, 2004

455J0405

HOUSE COMMERCE COMMITTEE ENGROSSED NO. **HB 1082** - 02/03/2004

Introduced by: The Committee on Commerce at the request of the Office of the Secretary of State

1 FOR AN ACT ENTITLED, An Act to revise certain provisions regarding registered agents and
2 service of process for certain business entities.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 47-34A-110 be amended to read as follows:

5 47-34A-110. Any registered agent of a limited liability company may resign as agent upon
6 filing a written notice of resignation, ~~executed~~ with the secretary of state, ~~who~~. The registered
7 agent shall forthwith mail a copy of the resignation to the limited liability company at its
8 registered office, if not discontinued, and the other copy to the limited liability company at its
9 principal office by certified mail, return receipt requested. The appointment of the agent shall
10 terminate upon the expiration of thirty days after receipt of notice by the secretary of state.

11 Section 2. That § 47-22-46 be amended to read as follows:

12 47-22-46. Any registered agent of a corporation may resign as such agent upon filing ~~an~~
13 ~~original and an exact or conforming copy of a~~ written notice thereof with the secretary of state;
14 ~~who~~. The registered agent shall forthwith mail ~~the~~ a copy to the corporation at its registered
15 office, if not discontinued, and another copy to the corporation at its principal office by certified



1 mail, return receipt requested. The appointment of the agent shall terminate thirty days after
2 receipt of notice by the secretary of state.

3 Section 3. That § 47-8-12.1 be amended to read as follows:

4 47-8-12.1. Any registered agent of a foreign corporation may resign as such agent upon
5 filing ~~an original and one exact or conforming copy of a~~ written notice thereof with the secretary
6 of state, ~~who~~. The registered agent shall forthwith mail ~~the~~ a copy to the corporation at its
7 principal office by certified mail, return receipt requested in the state or country under whose
8 laws it is incorporated. The appointment of such agent shall terminate thirty days after receipt
9 of notice by the secretary of state.

10 Section 4. That § 47-22-6 be amended to read as follows:

11 47-22-6. The articles of incorporation shall set forth:

- 12 (1) The name of the corporation;
- 13 (2) The period of duration, which may be perpetual;
- 14 (3) The purpose or purposes for which the corporation is organized;
- 15 (4) If the corporation is to have no members, a statement to that effect;
- 16 (5) If the corporation is to have one or more classes of members, any provision which the
17 incorporators elect to set forth in the articles of incorporation designating the class
18 or classes of members and stating the qualifications and rights of the members of
19 each class;
- 20 (6) If the directors or any of them are not to be elected or appointed by one or more
21 classes of members, a statement of the manner in which such directors shall be
22 elected or appointed;
- 23 (7) Any provisions, not inconsistent with law, which the incorporators elect to set forth
24 in the articles of incorporation for the regulation of the internal affairs of the

1 corporation, including any provision for distribution of assets on dissolution or final
2 liquidation;

3 (8) The street address, or a statement that there is no street address, of its initial
4 registered office, and the name of its initial registered agent at such address and ~~his~~
5 the registered agent's written consent to the appointment. Such consent may be given
6 by electronic signature pursuant to chapter 53-12;

7 (9) The number of directors constituting the initial board of directors, and the names and
8 addresses of the persons who are to serve as the initial directors; and

9 (10) The name and address of each incorporator.

10 It is not necessary to set forth in the articles of incorporation any of the corporate powers
11 enumerated in chapters 47-22 to 47-28, inclusive.

12 Section 5. That § 47-22-44 be amended to read as follows:

13 47-22-44. A corporation may change its registered office or change its registered agent, or
14 both, upon filing in the Office of the Secretary of State a statement setting forth:

15 (1) The name of the corporation;

16 (2) The street address of its current ~~registration~~ registered office or a statement that there
17 is no street address;

18 (3) If the address of its registered office is to be changed, the street address, or a
19 statement that there is no street address, of its new registered office;

20 (4) The name of its current registered agent;

21 (5) If its registered agent is to be changed, the name of its successor registered agent and
22 the new agent's written consent to the appointment. Such consent may be given by
23 electronic signature pursuant to chapter 53-12;

24 (6) That the street address, or a statement that there is no street address, of its registered

1 office and the address of the office of its registered agent, as changed, will be
2 identical; and

3 (7) That such change was authorized by resolution duly adopted by its board of directors.

4 Such statement shall be executed by the chair of the board of directors, by the corporation's
5 president or by another of the corporation's officers and delivered to the secretary of state.

6 Section 6. That § 47-27-1 be amended to read as follows:

7 47-27-1. Any foreign corporation, in order to procure a certificate of authority to engage in
8 business in this state, shall make application to the secretary of state, which application shall set
9 forth:

10 (1) The name of the corporation and the state or country under the laws of which it is
11 incorporated;

12 (2) The date of incorporation and the period of duration of the corporation;

13 (3) The street address of the principal office of the corporation in the state or country
14 under whose laws it is incorporated;

15 (4) The street address, or a statement that there is no street address, of the proposed
16 registered office of the corporation in this state, and the name of its proposed
17 registered agent in this state at such address and ~~his~~ the registered agent's written
18 consent to the appointment. Such consent may be given by electronic signature
19 pursuant to chapter 53-12;

20 (5) The purpose or purposes of the corporation in engaging in business in this state;

21 (6) The names and respective addresses of the directors and officers of the corporation;
22 and

23 (7) Such additional information as may be necessary in order to enable the secretary of
24 state to determine whether such corporation is entitled to a certificate of authority to

1 engage in business in this state.

2 An original and one exact or conforming copy of the application shall be made on forms
3 prescribed and furnished by the secretary of state and shall be executed and acknowledged by
4 the ~~chairman~~ chair of the board of directors, by the corporation's president, or by another of the
5 corporation's officers.

6 Section 7. That § 47-27-24 be amended to read as follows:

7 47-27-24. Any foreign corporation authorized to engage in business in this state may change
8 its registered office or change its registered agent, or both, upon filing in the Office of the
9 Secretary of State a statement setting forth:

- 10 (1) The name of the corporation;
- 11 (2) The street address, or a statement that there is no street address, of its current
12 registered office;
- 13 (3) If the address of its registered office is to be changed, the street address of the new
14 registered office;
- 15 (4) The name of its current registered agent;
- 16 (5) If its registered agent is to be changed, the name of the new registered agent and the
17 new agent's written consent to the appointment. Such consent may be given by
18 electronic signature pursuant to chapter 53-12;
- 19 (6) That the address of its registered office and the address of the office of its registered
20 agent, as changed, will be identical; and
- 21 (7) That such change was authorized by resolution duly adopted by its board of directors.

22 The statement shall be executed and acknowledged for the corporation by the ~~chairman~~ chair
23 of the board of directors, by the corporation's president, or by another of the corporation's
24 officers or, if the corporation is in the hands of a receiver, trustee, or other court-appointed

1 fiduciary, by that fiduciary.

2 Section 8. That § 47-20-17 be amended to read as follows:

3 47-20-17. A corporation may change its registered office or change its registered agent, or
4 both, upon filing in the Office of the Secretary of State a statement setting forth:

5 (1) The name of the corporation;

6 (2) The street address, or a statement that there is no street address, of its current
7 registered office;

8 (3) If the address of its current registered office is to be changed, the street address, or
9 a statement that there is no street address, of its new registered office;

10 (4) The name of its current registered agent;

11 (5) If its current registered agent is to be changed, the name of the new registered agent
12 and the new agent's written consent to the appointment. Such consent may be given
13 by electronic signature pursuant to chapter 53-12;

14 (6) That the address of its registered office and the address of the business office of its
15 registered agent, as changed, will be identical; and

16 (7) That such change was authorized by resolution duly adopted by the board of
17 directors.

18 Section 9. That § 47-24-6 be amended to read as follows:

19 47-24-6. Any domestic nonprofit corporation authorized to engage in business in this state
20 shall file, within the time prescribed by §§ 47-24-7 to 47-24-9, inclusive, a report setting forth:

21 (1) The name of the corporation;

22 (2) The street address, or a statement that there is no street address, of the registered
23 office of the corporation in this state and the name of its registered agent at such
24 address;

(3) A brief statement of the nature of the affairs which the corporation is conducting;

(4) The amount of property which the corporation may hold and the amount of property held; and

(5) The names and respective addresses of the directors and officers of the corporation.

The report shall be made on forms prescribed and furnished by the secretary of state and the information therein contained shall be given as of the date of the execution of the report. It shall be executed for the corporation by the ~~chairman~~ chair of the board of directors, by its president, or by another of its officers. ~~It shall be acknowledged by the officer executing the report.~~ If the corporation is in the hands of a receiver, trustee, or other court-appointed fiduciary, the report shall be executed ~~and acknowledged~~ on behalf of the corporation by that fiduciary.

Section 10. That § 47-27-18 be amended to read as follows:

47-27-18. Any foreign corporation authorized to engage in business in this state, shall file, within the time prescribed by this chapter, an annual report setting forth:

(1) The name of the corporation and the state or country under whose laws it is incorporated;

(2) The street address, or a statement that there is no street address, of the registered office of the corporation in this state and the name of its registered agent at such address and the address of its principal office in the state or country under whose laws it is incorporated;

(3) A brief statement of the character of the affairs which the corporation is conducting in this state; and

(4) The names and respective addresses of the directors and officers of the corporation.

The annual report shall be made on forms prescribed and furnished by the secretary of state and the information therein contained shall be given as of the date of the execution of the report.

1 It shall be executed ~~and acknowledged~~ by the ~~chairman~~ chair of the board, by the corporation's
2 president or another of the corporation's officers or, if the corporation is in the hands of a
3 receiver, trustee, or other court-appointed fiduciary, it shall be executed ~~and acknowledged~~ on
4 behalf of the corporation by that fiduciary.

5 Section 11. That § 47-2-30 be amended to read as follows:

6 47-2-30. Any registered agent of a corporation may resign as agent upon filing an original
7 written notice thereof with the secretary of state and by mailing an exact or conforming copy
8 thereof ~~with by certified mail, return receipt requested, to the secretary of state, who shall mail~~
9 ~~the copy to the corporation at its registered office~~ corporation. The appointment of the agent
10 shall terminate thirty days after receipt of notice by the secretary of state.

11 Section 12. That § 47-9-2 be amended to read as follows:

12 47-9-2. The annual report required by § 47-9-1 shall be made on forms prescribed and
13 furnished by the secretary of state and the required information shall be given as of the date of
14 the execution of the report, except as to the information required by subdivisions 47-9-1(7) and
15 (8), which shall be given as of the close of business on the day prior to the anniversary date of
16 the corporation next preceding the date provided in § 47-9-3 for filing such report. It shall be
17 executed by the ~~chairman~~ chair of the board of directors, by its president, or another of its
18 officers or if the corporation has not been formed, by an incorporator, or, if the corporation is
19 in the hands of a receiver, trustee, or other court-appointed fiduciary, by that fiduciary. ~~The~~
20 ~~report shall be acknowledged.~~

21 Section 13. That § 47-8-12 be amended to read as follows:

22 47-8-12. A foreign corporation authorized to do or engage in business in this state may
23 change its registered office or change its registered agent, or both, upon filing in the Office of
24 the Secretary of State a statement setting forth:

- 1 (1) The name of the corporation;
- 2 (2) The street address, or a statement that there is no street address, of its current
- 3 registered office;
- 4 (3) If the address of its registered office is to be changed, the street address, or a
- 5 statement that there is no street address, of the new registered office;
- 6 (4) The name of its current registered agent;
- 7 (5) If its registered agent is to be changed, the name of the successor registered agent and
- 8 ~~his~~ the registered agent's written consent to the appointment;
- 9 (6) That the address of its registered office and the street address of the business office
- 10 of its registered agent, as changed, will be identical;
- 11 (7) That such change was authorized by resolution duly adopted by its board of directors.
- 12 Such statement shall be executed by the corporation by its president or a vice-president;
- 13 ~~acknowledged by him,~~ and delivered to the secretary of state.

State of South Dakota

SEVENTY-NINTH SESSION
LEGISLATIVE ASSEMBLY, 2004

229J0160

SENATE HEALTH AND HUMAN SERVICES
COMMITTEE ENGROSSED NO. **HB 1111** -
02/07/2004

Introduced by: Representatives Van Etten, Buckingham, Christensen, Cradduck, Elliott, Frost, Frysliie, Glenski, Hunhoff, Konold, LaRue, McCoy, McLaughlin, Michels, Murschel, Olson (Mel), Rave, Sebert, Thompson, and Weems and Senators Olson (Ed), Albers, Dempster, Duniphan, Ham-Burr, Knudson, Kooistra, Sutton (Dan), and Sutton (Duane)

1 FOR AN ACT ENTITLED, An Act to clarify the regulation of ephedrine and to declare an
2 emergency.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. For the purposes of § 34-20B-19, the term, ephedrine includes ephedra, herbs and
5 herbal products that contain ephedrine alkaloids, including ma huang, Chinese ephedra, ephedra
6 sinica, ephedra herb powder, epitonin, or any extract of those substances, but the term does not
7 include any drug that contains ephedrine and is lawfully sold, transferred, or furnished over the
8 counter with or without a prescription pursuant to § 34-20B-21.

9 Section 2. Whereas, this Act is necessary for the immediate preservation of the public peace,
10 health, or safety, an emergency is hereby declared to exist, and this Act shall be in full force and
11 effect from and after its passage and approval.



State of South Dakota

SEVENTY-NINTH SESSION
LEGISLATIVE ASSEMBLY, 2004

724J0349

HOUSE TRANSPORTATION COMMITTEE ENGROSSED NO. **HB 1117** - 01/28/2004

Introduced by: Representatives Hargens, Cutler, Hunhoff, Madsen, and Sebert and Senators Moore, Duniphan, and Olson (Ed)

1 FOR AN ACT ENTITLED, An Act to revise the requirements for operating a motor vehicle
2 with an instruction permit.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 32-12-11 be amended to read as follows:

5 32-12-11. Any person who is at least fourteen years of age but less than eighteen years of
6 age applying for a South Dakota operator's license, restricted minor's permit, or instruction
7 permit who does not currently hold an operator's license, motorcycle operator's license,
8 restricted minor's permit, motorcycle restricted minor's permit, instruction permit, or motorcycle
9 instruction permit that has been valid continuously for one hundred eighty days, shall apply to
10 the Department of Public Safety for an instruction permit which shall be held for a minimum
11 of one hundred eighty continuous days. The department may, after the applicant has successfully
12 passed all parts of the examination other than the driving test and paid a fee which is equal in
13 amount to the fee prescribed for a license in § 32-12-16, issue to the applicant an instruction
14 permit. The instruction permit entitles the applicant, while having the permit in the applicant's
15 immediate possession, to drive a motor vehicle upon the public highways for a period of one



1 year during the hours of 6 a.m. to 8 p.m. local time if accompanied by a person holding a valid
2 operator's license who is at least eighteen years of age, has had at least one year of driving
3 experience, and who is occupying a seat beside the applicant. The holder of an instruction
4 permit may apply for a restricted minor's permit or operator's license after holding a valid
5 instruction permit for one hundred eighty continuous days.

State of South Dakota

SEVENTY-NINTH SESSION LEGISLATIVE ASSEMBLY, 2004

660J0508

HOUSE ENGROSSED NO. **HB 1161** - 02/03/2004

Introduced by: Representative Juhnke and Senator Duenwald

1 FOR AN ACT ENTITLED, An Act to prohibit certain practices associated with unarmed
2 retrieval of small game and to establish a penalty.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 41-9-8 be amended to read as follows:

5 41-9-8. Any person who knowingly enters or remains on private property for the purpose
6 of hunting, fishing or trapping, in violation of § 41-9-1 or 41-9-2, shall ~~have his~~ lose hunting,
7 trapping or fishing privileges ~~revoked~~ for one year following ~~such the~~ conviction. If the person
8 is the holder of a license to hunt, trap or fish, the court shall require the license holder to
9 surrender and deliver the license to the court to be returned to the Department of Game, Fish and
10 Parks. For the purpose of this section, the term, "guilty", has the same meaning as the term
11 , "conviction", in § 32-12-53.

12 Unarmed retrieval of lawfully taken small game from either private land or land controlled
13 by the Department of Game, Fish and Parks or other public lands, is not a crime or petty offense,
14 ~~provided that such~~ if the retrieval of the small game does not involve the use of a motor vehicle.

15 It is a Class 2 misdemeanor for any person, while engaged in the retrieval of small game
16 from private land without permission of the landowner or lessee of the land, to intentionally



1 drive or flush any small game located on the land toward other hunters of the retriever's same
2 hunting group located on other parcels of land or rights-of-way. It is a Class 2 misdemeanor for
3 any person, who is a member of the same hunting group as the person performing the retrieval
4 without the permission of the landowner or lessee of the land, to intentionally discharge a
5 firearm at small game, except waterfowl, that originates from the private land during the
6 retrieval.

7 This section ~~may not be construed to~~ does not limit the civil remedies available to any
8 landowner.

State of South Dakota

SEVENTY-NINTH SESSION
LEGISLATIVE ASSEMBLY, 2004

931J0615

HOUSE ENGROSSED NO. **HB 1165** - 02/05/2004

This bill has been extensively amended (hoghoused) and may no longer be consistent with the original intention of the sponsor.

Introduced by: Representatives Glenski, Engels, Hunhoff, Kraus, McCoy, Schafer, Smidt, Solum, and Van Gerpen and Senators Dempster and Kleven

1 FOR AN ACT ENTITLED, An Act to amend rule-making authority and rules to allow certain
2 facilities and hospice programs to redispense certain pharmaceutical drugs under certain
3 circumstances.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

5 Section 1. That § 36-11-11 be amended by adding thereto a NEW SUBDIVISION to read
6 as follows:

7 Redispensing of pharmaceuticals.

8 Section 2. That ARSD 20:51:15:01 be amended by adding thereto a NEW SUBDIVISION
9 to read as follows:

10 "Hospice program," a coordinated program of inpatient services providing palliative rather
11 than curative care for a patient.

12 Section 3. That ARSD 20:51:13:02.01 be amended to read as follows:

13 20:51:13:02.01. Return of unused unit dose drugs by patients in hospice programs, nursing
14 facilities, or assisted living facilities. Only unused unit dose drugs from patients in a hospice
15 program, a nursing facility, or an assisted living facility may be returned to the pharmacy that



dispensed the drugs for credit and redispensing if the following requirements are met:

(1) The facility or hospice program consults with a licensed pharmacist to oversee the drug distribution to ensure that a person trained and knowledgeable in the storage, use, and administration of the drug has been in control of any unit dose drug being returned to the pharmacy and that the unit dose drug has not come into the physical possession of the person for whom it was prescribed;

(2) The pharmacy's manager has received written approval from the board of a protocol detailing the procedure used to repackage, label, transfer, restock, redispense, and credit any unit dose drugs returned to the pharmacy;

(3) The drugs are provided in the manufacturer's unit dose packaging or are repackaged by the pharmacy in a hermetically sealed single unit dose container that meets Class A or Class B standards on pages 1937 and 1938 of the United States Pharmacopeia;

(4) The unit dose package is labeled by the manufacturer with the drug lot number and expiration date;

(5) If the drug is repackaged by the pharmacy, each single unit dose prepackaged or repackaged container must be labeled in accordance with this regulation. Labeling must include the following:

(a) Name and strength of the medication;

(b) A suitable expiration date which shall not be later than the expiration date on the manufacturer's container, or one year maximum from the date the drug is prepackaged or repackaged;

(c) The date the product was prepackaged or repackaged;

(d) The manufacturer's lot number, expiration date, and identity;

(e) The identity of the pharmacist responsible for prepackaging or repackaging;

1 If the requirements of subdivisions (d) and (e) are maintained in the internal
2 records of the drug outlet, those requirements may be omitted from the labeling.

3 (6) The drug's packaging is tamper resistant and shows no evidence of contamination, such
4 as an opened or stained container;

5 (7) The unit dose drugs have not reached the expiration date;

6 (8) The drugs have not been dispensed in packaging that intermingles different drugs in a
7 single compartment; and

8 (9) The drugs are not controlled drugs.

9 Unused unit dose drugs that are returned under this section may be redispensed pursuant to
10 § 20:51:13:02.03.

11 Section 4. That ARSD 20:51:13:02.03 be amended to read as follows:

12 20:51:13:02.03. Redispensing unit dose drugs returned from hospice programs, nursing
13 facilities, or assisted living facilities. Unused unit dose drugs that are returned under
14 § 20:51:13:02.01 may be redispensed under the following conditions:

15 (1) Drugs may not be removed and repackaged from the returned unit dose package prior
16 to redispensing;

17 (2) Drugs in a manufacturer's unit dose package may be redispensed as often as necessary,
18 if the integrity of the original product and package is maintained;

19 (3) Drugs which have been repackaged into a unit dose package by the pharmacy may be
20 redispensed into a unit dose distribution system and mixed with drugs of a different lot number
21 provided that all lot numbers and expiration dates are placed on the unit dose package;

22 (4) Drugs may be removed from a unit dose package for dispensing in a traditional
23 dispensing system as defined in § 20:51:21:01.

State of South Dakota

SEVENTY-NINTH SESSION
LEGISLATIVE ASSEMBLY, 2004

940J0730

SENATE HEALTH AND HUMAN SERVICES
COMMITTEE ENGROSSED NO. **HB 1267 -**
02/09/2004

Introduced by: Representatives Van Etten, Haverly, Hennies, Kraus, McCoy, Pederson (Gordon), Rave, and Thompson and Senators Ham-Burr, Earley, Kooistra, Napoli, Olson (Ed), and Reedy

- 1 FOR AN ACT ENTITLED, An Act to revise certain provisions regarding blood samples taken
2 after violent or accidental deaths.
- 3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:
- 4 Section 1. That § 34-25-22.1 be amended to read as follows:
- 5 34-25-22.1. The county coroner of each county shall take or cause to be taken blood samples
6 of any person who has died from apparent violence, fire, suicide, or motor vehicle, agricultural,
7 or industrial accident. The samples shall be taken as soon as practicable after the death has been
8 discovered and forthwith transmitted to ~~the office of laboratory services~~ a laboratory certified
9 to examine the sample for toxicology levels.



State of South Dakota

SEVENTY-NINTH SESSION
LEGISLATIVE ASSEMBLY, 2004

400J0702

SENATE EDUCATION COMMITTEE ENGROSSED NO. **SB 205** - 02/05/2004

Introduced by: The Committee on Education at the request of the Governor

1 FOR AN ACT ENTITLED, An Act to provide for the distribution of certain money
2 appropriated as state aid.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. The secretary of the Department of Education shall distribute any money, not to
5 exceed seven million three hundred seven thousand eight hundred ninety-six dollars
6 (\$7,307,896), from state aid which is not obligated or expended at the end of the fiscal year.

7 Section 2. For purposes of this Act, average daily membership means average daily
8 membership as defined in § 13-13-10.1 for school fiscal year 2003.

9 Section 3. Each school district's share of the distribution provided for in section 1 of this Act
10 is determined according to the following calculations:

11 (1) Divide each school district's average daily membership by the statewide average daily
12 membership;

13 (2) Multiply the quotient obtained by calculation (1) by the total amount of money
14 identified for distribution pursuant to section 1 of this Act.

15 Section 4. Any funds from state aid which are unspent at the end of fiscal year 2004 shall



1 be carried over to fiscal year 2005.

2 Section 5. This Act is effective on June 14, 2004.